

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

11 / Appeal Brief w/ Ext'l
hm/urgo
7/21/03

James M. Salerno)
Serial No.: 09/715,216)
Filed: November 17, 2000)
GAMING CLOTH AND DEVICE FOR)
SECURING GAMING CLOTH TO)
GAMING TABLE)

Group Art Unit: 3711

Examiner: D. Collins

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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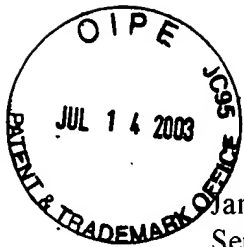
Sir:

Enclosed herewith is the Appeal Brief and three (3) copies thereof for the
referenced application. As noted therein, this is a reinstated appeal and thus an appeal
brief fee is not required.

Respectfully submitted,

Irving Keschner
Attorney for Applicant
Reg. No. 24,547
July 8, 2003

Patents/Salerno.ltr



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

James M. Salerno
Serial No.: 09/715,216
Filed: November 17, 2000
GAMING CLOTH AND DEVICE FOR
SECURING GAMING CLOTH TO
GAMING TABLE

Group Art Unit: 3711

Examiner: D. Collins

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Name of applicant, assignee or Registered Representative: Irving Keschner

Signature
Date: July 8, 2003

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SUBSTITUTE APPEAL BRIEF

1. REAL PARTY IN INTEREST

The party identified in the caption of the brief is the real party in interest.

2. RELATED APPEALS AND INTERFERENCES

An appeal brief was filed on September 10, 2002. The instant appeal brief substitutes for the originally filed appeal brief.

3. STATUS OF CLAIMS

Claims 8-10 and 14 have been finally rejected. The original Notice of Appeal was filed on July 16, 2002.

4. STATUS OF AMENDMENTS

In response to the filing of the appeal brief, examiner withdrew the final rejection

dated May 21, 2002 and rejected the claims in an office action dated November 8, 2002. An amendment was filed on February 27, 2003.

In an office action dated March 12, 2003, claims 8-10 and 14 were finally rejected. No amendments were filed after the final rejection.

5. SUMMARY OF INVENTION

Conventional gaming tables are typically overlaid with a cloth cover having the gaming symbols formed on the top surfaces thereof. For example, a roulette gaming table cloth will have the wheel numbers formed on the cloth surface enabling the players to place bets on the symbol corresponding to the selected wheel number.

The cloth covers currently in use are attached to the table surfaces by stapling the cover edges to the sides of the table, (alternately, drawstrings may be used for securing the cloth to round tables).

Due to the extensive use of the table, the cloth cover tends to wear out over a period of time. The table cloth thus must be replaced which requires workers to first spend time in removing the staples, removing the cloth, fitting the new cloth over the table and then stapling the cloth edges to the table sides. The time and labor involved in removing and then replacing the cloth covers is a significant cost to the casino owners.

The present invention provides apparatus for securing a gaming cloth to a table of various shapes and sizes. A Velcro® loop strip is attached to the underside, or border, formed around the edges of the cloth. A continuous Velcro strip having a plurality of hooks formed thereon is mounted along the circumference, or perimeter, of the table. The gaming cloth is securely attached to the table by positioning the cloth over the table

and stretching the cloth until the loop containing border engages the hooks on the hook strip formed on the perimeter of the table

The present invention thus provides a simple system for removably securing a gaming cloth to a table, providing significant savings in cost as a result.

6. ISSUES

Whether Claims 8-10 and 14 are unpatentable over Hairston et al (5,778,802) in view of Seibert (5,568,666) and Ehrlich (5,060,712) and further in view of Hartwell (4,954,384).

7. GROUPING OF CLAIMS

Claims 8-10 and 14 do not stand or fall together. In particular, the Board should decided the appeal on the basis of each claim.

8. ARGUMENT

WHETHER CLAIMS 8-10 AND 14 ARE UNPATENTABLE OVER HAIRSTON ET AL IN VIEW OF SEIBERT AND EHRLICH AND FURTHER IN VIEW OF HARTWELL UNDER 35U.S.C. 103(a)

Hairston discloses a non-gaming table cover system wherein a separate, elongated panel 12 is secured to the side of the table cover using a loop and hook fastener arrangement 16 applied to the side of table cover 10 and panel 12. The table cover does not have any markings formed on the surface thereof. In contradistinction thereto, independent claim 8 is directed to a gaming system and in the first limitation, sets forth that gaming symbols are on one surface thereof. In addition, claim 8 sets forth that the

border portion on the table cover itself incorporates one part of the hook and loop fastener system, the border portion in turn being secured to the other part of the hook and loop fastener system formed on the table edge. Claim 8 also sets forth physical characteristics of the table cloth i.e. that the table cloth comprises a tight, woven fabric, a feature not disclosed in Hairston et al.

Ehrlich discloses a technique for attaching a skirt to the edge of a table but fails to teach that the table cloth border portion itself has a fastener component secured thereto. In addition, Ehrlich does not disclose that the table cover is designed for use in a gaming table system.

Hartwell discloses a food rack cover but does not teach that one of the fastener members is attached to the cover itself, the other fastener member being coupled to a separate, underlying structure as set forth in independent claim 8. Finally, Hartwell does not disclose that the cover has gaming symbols formed on one surface thereof as set forth in claim 8.

While it is acknowledged that Siebert teaches how to make a gaming cloth, a system for removably attaching the cloth to a table, the inventive feature of the present invention, is not disclosed.

Dependent claims 9 and 10 define the specific fasteners utilized on the table cloth and table edge and dependent claim 14 sets forth that the border portions comprise a plurality of flap portions, a corresponding number of fastener members being secured to the flap border portions, features not shown in the cited prior art references.

In Robotic Vision Systems Inc. v. View Engineering, Inc., 51USPQ2d 1948, 1954 (Fed. Cir. 1999), the Court reiterated the standard regarding obviousness rejections under 35 U.S.C. § 103. In particular, the Court noted that the combination of two or more

references “must show some motivation or suggestion to combine the teachings”, also citing In re Rouffet, 47USPQ2d 1453 (Fed. Cir. 1998). It is clear that the Hairston, Ehrlich, Hartwell and Siebert references cited by the examiner do not motivate or suggest to someone skilled in the art that they can be combined to make applicant’s claimed invention obvious without the use of hindsight. In particular, neither the primary Hairston et al reference and the secondary Siebert and Hartwell references disclose that their table cover arrangements are adapted to be used in gambling table systems.

Applicant believes his gaming table system as set forth in the claims on appeal, provides significant advantages over the techniques currently in use. In particular, the system of the present invention significantly reduces costs by allowing a used gaming cloth to be quickly removed from a gaming table and replaced with a new gaming cloth, reducing the labor costs normally associated with such a task.

9. APPENDIX – CLAIMS INVOLVED IN APPEAL

8. A gaming table system comprising:

a gaming table cloth having gaming symbols formed on one surface thereof and comprising a tight, woven fabric of a predetermined denier, size and shape, the fabric having a border portion and a first fastening member secured to one surface of said cloth border portion; and

a gaming table comprising a surface portion, a portion extending substantially perpendicular from said table surface and around the circumference thereof, and a second fastening member secured around the circumference of said perpendicularly

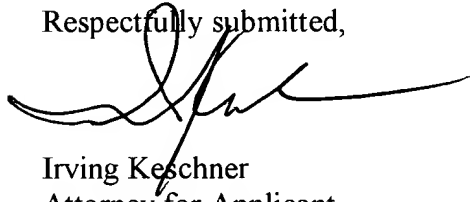
extending table portion, said gaming table cloth being positioned on the surface of said table whereby said first fastening member is releasably secured to said second fastening member.

9. The system of claim 8 wherein said first fastening member comprises a hook fastener system.

10. The system of claim 9 wherein said second fastening member comprises a complimentary loop fastener system.

14. The gaming table system of claim 8 wherein said border portion comprises a plurality of flap portions extending around the circumference of said cloth, said first fastening member comprising a plurality of fasteners secured to the bottom surface of corresponding flap portions.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Irving Keschner', written over the typed name and address.

Irving Keschner
Attorney for Applicant
Reg. No. 24,547
July 8, 2003

Patents/Salerno.appealbrf2



TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Application Number	09/715,216
Filing Date	November 17, 2000
First Named Inventor	James M. Salerno
Art Unit	3711
Examiner Name	D. Collins
Attorney Docket Number	

Total Number of Pages in This Submission

1

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Group
<input checked="" type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input checked="" type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53		

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SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Irving Keschner
Signature	
Date	July 8, 2003

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Typed or printed name	Irving Keschner		
Signature		Date	July 8, 2003

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

FEE TRANSMITTAL for FY 2003

Effective 01/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 55

Complete if Known

Application Number	09/715,216
Filing Date	November 17, 2000
First Named Inventor	James M. Salerno
Examiner Name	D. Collins
Art Unit	3711
Attorney Docket No.	

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☐ Deposit Account:

Deposit Account Number

Deposit Account Name

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Credit any overpayments

☐ Charge any additional fee(s) during the pendency of this application

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 750	2001 375	Utility filing fee	
1002 330	2002 165	Design filing fee	
1003 520	2003 260	Plant filing fee	
1004 750	2004 375	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1) (\$)			

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims -20** = X =

Independent Claims -3** = X =

Multiple Dependent =

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 84	2201 42	Independent claims in excess of 3
1203 280	2203 140	Multiple dependent claim, if not paid
1204 84	2204 42	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$)

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	55
1252 410	2252 205	Extension for reply within second month	
1253 930	2253 465	Extension for reply within third month	
1254 1,450	2254 725	Extension for reply within fourth month	
1255 1,970	2255 985	Extension for reply within fifth month	
1401 320	2401 160	Notice of Appeal	
1402 320	2402 160	Filing a brief in support of an appeal	
1403 280	2403 140	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,300	2453 650	Petition to revive - unintentional	
1501 1,300	2501 650	Utility issue fee (or reissue)	
1502 470	2502 235	Design issue fee	
1503 630	2503 315	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.101	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 750	2809 375	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 750	2810 375	For each additional invention to be examined (37 CFR 1.129(b))	
1801 750	2801 375	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$) 55

SUBMITTED BY		(Complete if applicable)	
Name (Print/Type)	Irving Reschner	Registration No. (Attorney/Agent)	24,547
Signature		Telephone	(310) 543-5200
		Date	July 8, 2003

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